



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
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LEROY D. BACA, SHERIFF

October 28, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

Dear Supervisors:

**RESPONSE TO SPECIAL COUNSEL MERRICK J. BOBB'S
20TH SEMIANNUAL REPORT**

On September 12, 2005, Special Counsel Merrick Bobb released his 20th Semiannual Report. In the report, he references some specific operational functions and activities within the Department including Recruitment, Hiring, and Retention; our efforts to eradicate criminal misconduct by our employees; the utilization of Conflict Resolution to resolve complaints between the public and the Department; the May 9, 2005, Compton Shooting; and current shooting and use of force trends.

In the past, Mr. Bobb has played a role in reporting issues and provided input that the Sheriff's Department has previously and continues to use to augment its efforts to improve various aspects of our operation. In respect to this particular report, the Sheriff's Department appreciates Mr. Merrick Bobb's acknowledgment of our Department's willingness, over the years, to consider and implement suggested recommendations and that we are a more progressive Department than when he first looked into the Department in 1992. Furthermore, we are reassessing the current manner in which we are conducting our operations within some of the areas reflected in this report. However, in reviewing Mr. Bobb's report, there are a couple of particular key areas that Special Counsel has reported some findings and recommendations that may create a climate of uncertainty to both the Board and the public we serve.

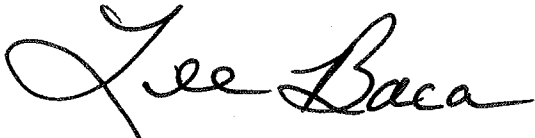
In an effort to clarify and/or correct any misreported information, my staff has prepared a response to two specific aspects of the report, the use of Conflict Resolution within LASD and our Internal Criminal Investigations, which I am forwarding to the Board along with this letter. I hope that it will assist in clarifying some of the issues addressed in the report and will serve as a reassurance to the public we serve that we are committed to establishing the standard for professional law enforcement and adhering to our Core Values is the foundation for that standard.

A Tradition of Service

I appreciate the efforts of the Board and Special Counsel which support my philosophy of continually seeking to improve the operations and practices of the Sheriff's Department and its members.

If you have any questions about this correspondence, or my response, please do not hesitate to contact me at (323) 526-5000.

Sincerely,

A handwritten signature in black ink, reading "Leroy D. Baca". The signature is written in a cursive, flowing style. The first name "Leroy" is written with a large, stylized "L" that loops around the first few letters. The last name "Baca" is written in a similar cursive style.

LEROY D. BACA
SHERIFF

LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT'S
RESPONSE TO SPECIAL COUNSEL'S
20TH SEMIANNUAL REPORT

INTRODUCTION

The following document contains a response to a few key issues and concerns addressed by Special Counsel in his 20th semiannual Report to the Board. This report will correct errors, clarify issues, and provide insight into the Department's efforts and programs in the areas reported.

CONFLICT RESOLUTION

Special Counsel reported that the Mediation and/or Conflict Resolution of citizens' complaints has fallen into virtual disuse, and made recommendations for enhancing the Department's utilization of Conflict Resolution as well as the acquiring of outside third parties to facilitate Conflict Resolution.

The Department stands firm that Conflict Resolution remains as a positive means towards finalization of Watch Commander Service Comment Report complaints. It provides unit commanders with a "good tool" for serving and educating the community in law enforcement activities, relative to their complaint, listening to the complainant's side of the incident, and providing our employees with first-hand information from the service recipient's point-of-view. This tool will be promoted for increased usage throughout the Department (excluding inmate complaints).

It is believed that the Conflict Resolution arena may have been used more than reported throughout the Department. The concept has been used as a means to listen to and discuss both sides of an incident, occasionally resulting in a unit commander's finalization that our employee's conduct was reasonable, could have been better or should have been different. In these cases, one of the appropriate three boxes would have been checked, and while documentation of the Conflict Resolution meeting was noted in the narrative, it would not statistically have been reported. However, we are looking into our ability to more accurately capture, specifically for tracking purposes, when the utilization of Conflict Resolution contributed to the final findings.

We concur with Mr. Bobb's opinion that the Department could do a better job of educating the unit and watch commanders of the guidelines for Conflict Resolution approval and usage. Steps will be taken to review the guidelines, taking into consideration the criticism outlined by the report, and forward any updated guidelines to all managers.

While the Department will analyze the utilization of a 3rd party mediator, initiation of this concept may delay the finalization of complaints, something the Department tries to conduct timely. The use of mediators outside the Department may also minimize the voluntary participation from employees. In the interim, the Department will educate its managers on the concepts of Conflict Resolution, its benefits to the Department and the community, and provide guidelines for reference.

INTERNAL CRIMINAL INVESTIGATIONS BUREAU

In Chapter Two of the Report, the Special Counsel discusses the operation of the Internal Criminal Investigations Bureau and makes recommendations that he believes would improve the overall management of risk facing the Sheriff's Department in the area of criminal misconduct by employees. The Special Counsel's report contains a combination of fact and opinion, which have been combined to provide the reader an incomplete view, if not a mischaracterization, of the Department's efforts in this area. The Sheriff's Department has undertaken a thorough analysis of the Special Counsel's report and recommendations, and seeks to provide a response that more clearly and accurately represents our organizational philosophy and processes in the area of investigations of criminal misconduct by Department members.

To systematically address the Special Counsel's report and recommendations, this response has identified the following four subject areas for comment which include various references from the report:

- INTAKE AND CASE DISPOSITION PROCESS
- RESIGNATIONS
- CASE MANAGEMENT AND INVESTIGATIVE TRENDS
- STINGS – RANDOM AND TARGETED

INTAKE AND CASE DISPOSITION PROCESS

The Special Counsel's report makes various references to ICIB's intake and case disposition processes including specific, unsupported references to unit commanders being discouraged from calling to report potential allegations of criminal misconduct. The following information is offered to clarify ICIB's processes.

ICIB managers regularly receive telephone calls from unit commanders (or their staff) regarding potential allegations of criminal misconduct. ICIB managers sort facts, provide advice and make decisions so that there is an appropriate resolution. Because there are unique issues relating to law enforcement personnel investigations (i.e., the Peace Officers' Bill of Rights, pre-existing Sheriff's Department settlement agreements, case law, etc.), unit commanders typically involve ICIB managers telephonically at an early stage to prevent a misstep that might hamper criminal prosecution of a case. They rely on the experience, expertise, and guidance of ICIB managers in this regard, much like they rely on other specialized detective units that investigate allegations of criminal misconduct by members of the public.

Once a unit commander discusses the facts of an allegation with an ICIB manager, there are four typical courses of action: (1) the allegations are outside the jurisdiction of ICIB and/or the Sheriff's Department and are referred to the appropriate criminal investigative entity, (2) sufficient "reasonable suspicion" is articulated by the unit commander and ICIB investigates the allegations, (3) insufficient "reasonable suspicion" is articulated by the unit commander and they are directed by ICIB to conduct additional inquiry to reach that threshold, then ICIB follows up to ensure completion, and (4) there are insufficient facts to connect an employee with alleged criminal activity and the allegations are resolved administratively, apart from ICIB's involvement.

All investigations completed by ICIB are reviewed by the District Attorney's Office. According to their written policy, investigative reports are submitted in cases wherein there is probable cause to believe that a crime has been committed and the person has committed it. If there is insufficient probable cause, the facts of the case are related orally to the District Attorney's Office, who either concurs with an ICIB decision to forgo submission of written investigative reports to their office or asks that they be submitted. ICIB investigations are closed only after they are either prosecuted or declined in written or oral form.

In addition to the aforementioned, "inquiries" are sometimes conducted by ICIB. These typically occur when a unit commander reports vague or incomplete facts to an ICIB manager, but ICIB seems to be the most reasonable entity to conduct an inquiry. In the past, inquiries were typically documented in Office Correspondence (memorandums), but are now documented in investigative reports with a Uniform Report Number.

Henceforth, in the event of a consultation wherein ICIB managers determine there is insufficient reasonable suspicion to connect an employee with alleged criminal activity, but the allegations are administrative in nature, ICIB will send Office Correspondence to the concerned unit commander outlining why the case does not meet criteria for criminal investigation. The Office Correspondence will reference a Watch Commander's Service Comment Report number or an administrative investigation number for tracking purposes.

RESIGNATIONS

In his review of the Internal Criminal Investigations Bureau, the Special Counsel indicated that there appears to be a departmental preference for seeking resignation from employees under criminal investigation in lieu of seeking criminal prosecution. It is true that resignations serve as an expedient way to ensure an employee is permanently separated from the Sheriff's Department. However, it is not the role of ICIB to pursue or actively seek an employee resignation. On rare occasions, employees have resigned prior to the initiation of an ICIB case. However, the criminal investigation has generally proceeded regardless of whether the employee resigned. Under those circumstances criminal cases are still presented to the District Attorney's Office for filing consideration. Currently, the District Attorney's Office is considering two cases wherein employees resigned during the course of criminal investigations. In the last two years, there have been no cases wherein an employee resigned, but was not investigated by ICIB or where an ICIB investigation was halted due to an employee resignation.

In those instances where criminal charges are filed, ICIB representatives typically ask the District Attorney's Office to consider securing an employee's resignation should plea negotiations take place between prosecutors and defense attorneys. Most often, prosecutors only focus on jail terms, probation parameters, or fines when discussing pleas with defense attorneys. By asking prosecutors to seek resignation in addition to jail, probation, or fines, society and the Department benefit from separating an employee from the law enforcement profession in an expeditious manner. Due to the Civil Service process, convictions do not always result in an employee's permanent separation from the Department and there is always the risk that the Department's decision to discharge will not be sustained in a Civil Service hearing or Superior Court appeal. Resignations remain a viable method to ensure that problematic employees are permanently separated from Department service.

CASE MANAGEMENT AND INVESTIGATIVE TRENDS

The Special Counsel's report offers criticisms of the Sheriff's Department for not including criminal investigations in the Personnel Performance Index (PPI) and ICIB's use of its "statistical database" to derive data, produce statistics, and monitor trends within the Sheriff's Department. He recommends that the Sheriff's Department begin adding criminal investigations to the Personnel Performance Index (PPI) and that employees of ICIB be given specific training to enhance their ability to use the local database.

The Department maintains the Personnel Performance Index (PPI), which captures various data on employees including uses of force, traffic collisions, administrative investigations, citizen complaints and commendations, as its central repository of employee risk related data. The PPI is the appropriate file for recording the information referred to by the Special Counsel. The Department concurs, in concept, with the Special Counsel's recommendation that investigations of criminal misconduct be added to the PPI. The Department should examine the options available, and all associated issues, to create a module within the PPI to capture and record investigations of criminal misconduct.

The internal ICIB "statistical database" referred to by the Special Counsel is a case management tool designed to provide ICIB managers local accessed information to better manage the status of individual criminal cases. The "statistical database" was neither designed, nor ever intended to be, the Department's trend analysis tool. That is one of the intended purposes of the PPI database. The ICIB staff is quite adept at using the database for its original intended purpose, which is to track selected activity associated with a case (i.e., case initiation date, assigned investigator, criminal allegation, and date case sent to the District Attorney, etc.) and to ensure that all appropriate actions required on a case are initiated and monitored.

STINGS – TARGETED AND RANDOM

The Special Counsel comments that the Sheriff's Department's use of targeted stings is infrequent and inconsistent. In some cases, targeted stings can be a very effective tool and are utilized when appropriate. ICIB thoroughly evaluates each case and develops an investigative strategy most appropriate for the given facts. In cases where targeted stings are viewed as a viable investigative tactic, they are used. However, they are not a viable tactic in every case.

With respect to conducting random sting operations, they have and can continue to be a viable mechanism for ensuring the integrity of our public complaint process as well as our employees themselves. However, we do not feel at this time that the allocation of investigative resources to conduct random integrity stings, outweighs the commitment of those same resources to investigate crimes committed against persons within our jurisdiction, and to bring those responsible for these crimes to justice.